

REMARKS

Claims 1, 3, 5-7 and 10-12 are the only active claims pending in this application. Claims 2 and 9 canceled. The foregoing separate sheets marked as "Listing of Claims" shows all the claims in the application, each with an indication at its first line showing the claim's current status.

I. Claim Objections

Claims 10 (having the "tube" limitation of the now-canceled claim 9) and 12 are amended for typographical form in reciting "tube."

Claim 5 is amended for form, removing the stated basis for the objection as to "a horizontal axis of rotation." See claim 5, currently amended, at line 3.

Applicant respectfully submits that the amendments do not add new matter, do not change the scope of the claims, and do not raise new issues. Entry of the amendments, and reconsideration and withdrawal of the objections is respectfully requested.

II. Rejections Under 35 U.S.C. § 112, first paragraph

The Office Action rejects claims 3, 5, 6, and 9-11 under 35 U.S.C. § 112, first paragraph on the stated basis that, to essentially summarize the examiner's position, ovals have different radii and, therefore, one oval cannot be defined relative to another oval in terms of a "diameter." Office Action at pp. 2-3.

Applicant respectfully traverses the rejection. Applicant respectfully submits that a person of ordinary skill would understand "different diameters," in view of the entirety of the original disclosure, to mean that the inner tube and outer tube are dimensioned to move in a telescoping manner relative to one another. Applicant therefore respectfully submits that a person of ordinary skill can make and use the invention based on the original disclosure, without undue experimentation. However, for purposes of expediting this application, and without waiving any objections, Applicant has amended claim 3 to recite: "scaled" and "perimeter shapes," in

accordance with the Examiner's suggested wording. See claim 3, currently amended, at lines 5-8.

Applicant respectfully submits that the amendment does not add new matter, does not materially affect the scope of the claims, and does not raise new issues. Entry of the amendment, and reconsideration and withdrawal of the rejection is respectfully requested.

III. Rejections Under 35 U.S.C. § 112, second paragraph

Applicant has amended the base claim 1 recital of "inclined telescoping member," appearing at lines 15-16 of the examined claim, to conform to the antecedent of the subject recital. See claim 1, currently amended, at lines 3-5 (first instance of antecedent) and at lines 17-18 (subject recital, as amended).

Applicant respectfully submits that the amendment does not add new matter, does not materially affect the scope of the claims, and does not raise new issues. Entry of the amendment, and reconsideration and withdrawal of the rejection is respectfully requested.

IV. Rejections Based on Prior Art

A. Claims 1-3 and 5-7

The Office Action rejects claims 1-3 and 5-7 under 35 U.S.C. §103(a) on the stated position that these are being unpatentable over the combined disclosures of U.S. Patent No. 5,957,474 ("Mundy"), in view of UK Patent Application No. GB 2141980A ("Tunkers") and U.S. Patent No. 4,730,842 ("Summers").

Applicant respectfully traverses the rejection. Applicant respectfully submits that applying the broadest reasonable meaning to the claim language, and comparing the claims as interpreted, as a whole, to the disclosures of Mundy, Tunkers and Summers shows that the rejection is not supported by the collective teaching of these references.

Applicant's claim 1 recites: "at least one inclined telescopically adjustable member ... in a front-to-back direction." Claim 1, currently amended, at lines 4-5.

The “telescopically adjustable” limitation was in the examined claim 1 at lines 13-15, and was in the examined claim 2, which is canceled.

The Office Action relies on Mundy as disclosing “an inclined adjustable member (40, 42).” Office Action at p. 4, lines 1-2. Applicant respectfully submits that the Office Action misinterprets Mundy, or interprets the claim element of a “frame including ... [an] inclined adjustable member” broader than its broadest reasonable meaning. Mundy’s frame rails 40 and 41 are not adjustable. Mundy’s frame rails 40 and 41 are fixed. Mundy’s multiple through holes 55, 56, and 57 for the rear axle do not constitute an “inclined adjustable member” of a frame. The holes 55, 56, and 57 do not adjust Mundy’s frame; the holes 55, 56 and 57 allow the rear axle to be adjusted at different positions with respect to the frame. The holes 55, 56 and 57 do not move. Mundy therefore discloses a fixed, non-adjustable “rigid” wheelchair frame. Mundy, e.g., at column 2, lines 21-24.

The Examiner’s position is that since “Tunkers teaches a ... [frame] having telescopic adjustable frame member ... [i]t would have obvious to modify Mundy ... [to have] the telescopic frame member as taught by Tunkers.” Office Action at p. 4, lines 11-13. The Examiner’s position is that the motivation for the modification is that “such a modification would provide the advantage of an automatic adjustment of the distance between [the] steerable and non-steerable wheel, for variable stability.”

Applicant respectfully submits that Tunkers does not disclose the structure for which it is cited.

Applicant’s claim 1 recites a frame having an “inclined telescopically adjustable member,” and the “steerable wheel mounted to the inclined telescopically adjustable member.” Claim 1, currently amended, at lines 6-7. Claim 1 also recites “a seat which is fastened to the frame.” *Id.*, at line 13.

Tunkers does not teach or disclose a “inclined telescopically adjustable member,” does not teach or disclose a “steerable wheel mounted to the inclined telescopically adjustable member.”

Tunkers teaches a steerable wheel 5 attached to the front section 10 of a horizontal chassis 9, with a seat 24 attached to the front section 10, having a telescoping rear section 11 that extends backward from the seat and the front

section. According to Tunkers, the rear section 11 telescopes backward from the front section 10, seat 24 and front wheel 5 to place the "centre of gravity of the seat towards the front wheels relative to the rear wheels." Tunkers, lines 79-82.

Applicant respectfully submits that Mundy and Tunkers must be viewed in their entirety to determine what they collectively teach. Mundy teaches fixed length frame rails 40 and 41 and the rear wheel in front of the center of gravity, and that optimal stability results from placing the center of gravity in front of the rear wheels. Tunkers teaches the opposite approach, with a front seat and frame and rearward telescoping rear section, and that optimal stability results from the center of gravity biases the weight toward the front wheel.

Applicant respectfully submits that cutting and extracting the telescoping structure from Tunkers, without regard for its function, structure and arrangement, and without regard to Tunkers' objective, and then re-arranging Mundy to have a redesign of Tunkers' telescopic feature, in an arrangement suggested neither by Mundy nor Tunkers is, at best, a hindsight construction using Applicant's claims and other disclosure as a guide.

The Office Action states: "neither Mundy nor Tunkers teach the distance between the axis of rotation and the frame being adjustable," and then cites Summers' disclosure of multiple axle mount holes 70 as providing such a teaching. Office Action at p. 4, line 20, through p. 5, line 2.

Applicant respectfully responds that Summers discloses a fork 67, attached to horizontal, non-telescoping, non-adjustable rails 51 and 52. Applicant respectfully submits that Summers' disclosure of multiple axle mount holes 70 does not teach, disclose, or suggest the claim 1 "inclined telescopically adjustable member," and not teach or suggest anything of, or toward, that member combined with any means for adjusting the distance between the axis of rotation and the frame.

Further, Applicant's claim 1 recites the function of the means for adjusting the distance between the axis of rotation and the frame as "adjust[ing] the pivot axis [of the fork] to be substantially vertical." Claim 1, currently amended, at lines 16-19. As described in Applicant's specification, at page 5, line 37, through page 6, line 14, this claimed function of adjusting the distance (referenced as "D" in FIG. 1) between the

frame and the axis of rotation to adjust the pivot axis (referenced as "H" in FIG. 1) to be substantially vertical, avoids the off-vertical angle that would otherwise result from extending and contracting the claimed telescopically adjustable inclined frame member frame 20.

Applicant respectfully requests, for at least the foregoing reasons, that the rejection of claim 1 be reconsidered and withdrawn.

B. Claims 9-11

The Office Action rejects dependent claims 9-11 under 35 U.S.C. § 103 as being unpatentable over Mundy in view of Tunkers and Summers, as applied to base claim 1, in further view of U.S. Patent No. 4,824,303 ("Dinger") and U.S. Patent No. 3,847,493 ("Peter"). Office Action at pp. 7-8. Claim 9 is canceled and all of its limitations are incorporated in the amended claim 10.

Applicant respectfully traverses the rejection of claims 10 and 11.

First, claims 10-11 depend from claim 1. Applicant respectfully submits that, in relation to claim 1, the combined disclosures of Dinger and Peter add nothing to Mundy, Tunkers or Summers. The subject matter of Dinger and Peter have nothing to do with wheelchairs, nothing to do with the claim 1 "telescopically adjustable inclined members," nothing to do with the claim 1 "means for adjusting the distance," and nothing to do with the claim 1 "means for adjusting the pivot axis to be substantially vertical," which are also not disclosed by Mundy, Tunkers and Summers. Applicant therefore respectfully submits that claims 10-11 are patentable over the combined teachings of Mundy, Tunkers, Summers, Dinger and Peter for at least the reasons by which claim 1 is patentable over these references.

Second, claim 10 recites that the "clamping element is positioned between said inner tube and said outer tube," and that includes "a first member having tapered ends, and a second and third member each have a tapered end engaging a tapered end of said first member." Claim 10, currently amended, at lines 2-6. The claim further recites "means for compressing said second and third members against said first member." Claim 10, currently amended, at lines 6-7.

Dinger discloses a locking wedge for a printed circuit board. Applicant respectfully submits that a person of ordinary skill in the art of wheelchairs, facing a problem of wheelchair stability, would not look to structures for securing printed circuit boards. Regardless, claim 10 recites the clamping element as being "between the inner tube and the outer tube." Dinger discloses no structure for positioning the apparatus it discloses between inner and outer tubes.

Peter does not have any structure within the broadest reasonable meaning of the claim 10 first, second and/or third member.

Applicant respectfully requests, for at least the foregoing reasons, that the rejection of claims 10 and 11 be reconsidered and withdrawn.

C. Claim 12

The Office Action rejects claim 12 under 35 U.S.C. § 103 as being unpatentable over Tunkers in view of Mundy. Office Action at pp. 6-7.

Applicant respectfully traverses the rejection. Applicant respectfully submits that applying the broadest reasonable meaning to the claim language, and comparing the claims as interpreted, as a whole, to the disclosures of Mundy, and Tunkers shows that the rejection is not supported by the collective teaching of these references.

Applicant's claim 12 recites:

telescopic tubes [that] run at an inclination with respect to tire contact area of the at least one steerable wheel and the at said least one non-steerable wheel

Claim 12, currently amended, at lines 15-17.

Applicant respectfully submits that Mundy's frame rails 40 and 41 are not telescopic. Mundy's frame rails 40 and 41 are fixed.

Tunkers teaches a steerable wheel 5 attached to the front section 10 of a horizontal chassis 9, with a seat 24 attached to the front section 10, having a telescoping rear section 11 that extends backward from the seat and the front section. According to Tunkers, the rear section 11 telescopes backward from the front section 10, seat 24 and front wheel 5 to place the "centre of gravity of the seat towards the front wheels relative to the rear wheels." Tunkers, lines 79-82.

Applicant respectfully submits that Mundy and Tunkers must be viewed in their entirety to determine what they collectively teach. Mundy teaches fixed length frame rails 40 and 41 and the rear wheel in front of the center of gravity, and that optimal stability results from placing the center of gravity in front of the rear wheels. Tunkers teaches the opposite approach, with a front seat and frame and rearward telescoping rear section, and that optimal stability results from the center of gravity biases the weight toward the front wheel.

Applicant further submits that cutting and extracting the telescoping structure from Tunkers, without regard for its function, structure and arrangement, and without regard to Tunkers' objective, and then re-arranging Mundy to have a redesign of Tunkers' telescopic feature, in an arrangement suggested neither by Mundy nor Tunkers is, at best, a hindsight construction using Applicant's claims and other disclosure as a guide.

Applicant's claim 12 further recites: "wherein a distance between an axis of rotation of said at least one steerable wheel and said frame is adjustable."

Claim 12, currently amended, at lines 13-14.

An example structure within the meaning of "wherein a distance between an axis of rotation ... and said frame is adjustable" is shown in Applicant's FIG. 1 as vertically spaced axle mount holes 4 for raising and lowering the distance A between the axis of rotation and the frame element 11.

As described in Applicant's specification, at page 5, line 37, through page 6, line 14, the claim 12 function of adjusting the distance (referenced as "D" in FIG. 1) between the frame and the axis of rotation to adjust the pivot axis (referenced as "H" in FIG. 1) to be substantially vertical, avoids the off-vertical angle that would otherwise result from extending and contracting the claimed telescopically adjustable inclined frame member frame 20.

Applicant respectfully submits that the combined disclosures of Mundy and Tunkers do not teach or suggest anything of this feature.

Applicant respectfully requests, for at least the foregoing reasons, that the rejection of claim 12 be reconsidered and withdrawn.

CONCLUSION

Therefore, in view of the foregoing, Applicant respectfully requests that the application be reconsidered, that at least claims 1, 3, 5-7, and 10-12 be allowed, and that the application be passed to issue.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is respectfully requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary. Please charge any fees for such provisional petition and any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Laurence E. Stein', written over the printed name.

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